

# USAID/MACEDONIA JUDICIAL STRENGTHENING PROJECT (JSP)

MONTHLY REPORT: MAY 2012

June 4, 2012

This publication was produced for review by the United States Agency for International Development. It was prepared by Tetra Tech DPK.

## **TABLE OF CONTENTS**

### **I. PROGRAM ACTIVITIES AND TASKS**

**RESULT 1 ..... 1**

**REQUIREMENT 1.1 ..... 1**

**RESULT 2.....4**

**REQUIREMENT 2.1 .....4**

**REQUIREMENT 2.2.....5**

**RESULT 3.....6**

**REQUIREMENT 3.1 .....6**

**REQUIREMENT 3.2.....7**

**II. PROBLEMS AND REMEDIAL ACTIONS ..... 8**

**III. SUMMARY OF ACTIVITIES PLANNED FOR MAY 2012..... 8**

## **I. PROGRAM-RELATED ACTIVITIES AND TASKS**

### **Performance-Monitoring Plan**

As a result of a number of meetings that took place with the COR and with both USAID PMP Expert Ivica Vasev and the Project Development Specialist, the Project Monitoring Plan was submitted to USAID on May 31, 2012 after a final indicator was developed (the ratio of new case filings to dispositions).

### **I. RESULT 1: STRENGTHENING ADVOCACY AND CITIZEN PARTICIPATION IN JUDICIAL SECTOR REFORM**

**I.1. Requirement I.1** - *A short, focused assessment, baseline survey, and resulting action plan on judicial-sector professional associations and CSOs and the role they can play in strengthening the rule-of-law area in Macedonia.*

The Judicial Strengthening Project (JSP) assists selected legal professional associations (LPAs) and civil society organizations (CSOs) to provide better services to and advocate for the interests of their members. The goal is to foster the demand side of judicial reform and build pressure on the Government of Macedonia (GOM) and judicial leadership to undertake reforms that advance judicial independence and effectiveness. The project identified relevant professional associations and CSOs willing and able to advocate for judicial reform. The JSP will focus during the first year on assessing and strengthening the capacity of the organizations selected.

The Center for Institutional Development (CIRa) completed phase I of the initial assessment of the organizational needs of 11 professional organizations and CSOs on March 28, 2012. CIRa submitted a draft report, and gave a presentation to JSP team. On April 2 the final report was filed. JSP staff, in consultation with the COR, selected three LPAs for phase II of the assessment:

- The Macedonian Judges Association (MJA);
- The Macedonian Young Lawyers Association (MYLA);
- The Court Administration Association (CAA).

In phase II, CIRa conducted a performance organizational assessment of the three selected organizations to identify performance gaps and to recommend training and technical assistance packages customized to the needs of each organization. The second phase was carried out from March 29 to May 29, 2012.

The objectives of the second phase of the organizational and performance assessment process were to:

- Prepare and present a comprehensive set of three performance assessment instruments & the overall process to the 3 selected organizations;
- Conduct a performance assessment of the selected organizations' leadership and personnel; and,
- Prepare and present a Performance Organizational Assessment of LPAs and CSOs to JSP staff members for consideration.

CIRa presented the assessment to the JSP team on Tuesday, May 29 at JSP offices. The presentation was followed by questions from JSP personnel and a number of issues were addressed, such as the timeframe for implementing the action plan and the specifics of each organization's needs. The assessment includes a description of the organizational performance assessment process, CIRa's findings, and a capacity building plan for each organization.

JSP staff discussed the assessment report and action plan with the COR and made tentative plans to proceed to phase III which will include activities specifically designed to enhance the capacity of the selected organizations. The JSP intends to finalized the action plan in June 2012, and conduct trainings from June 2012 to June 2013.

### **1.1.1 Grant Assistance to LPAs and CSOs**

The project continued to engage LPAs and CSOs, including those not selected for targeted capacity-building training. The initial assessment of LPAs and CSOs demonstrated that these organizations have significant strengths but need capacity strengthening in limited areas. JSP previously informed each of the associations and organizations that the project plans to include representatives from each organization in a series of trainings included in phase I of the assessment.

JSP staff followed the public announcement of available funding by the USAID Civil Society Project (CSP) in early May. The JSP informed each partner LPAs and CSOs of the availability of grant funding by post and by email where available. JSP staff attended an informational meeting for potential grant applicants with a number of the supported organizations and offered technical assistance in completing the grant applications to those interested in pursuing a grant. Follow-up phone calls were made and a number said that they would request assistance in the application process. The deadline for filing the grant applications is June 4. The Coalition All for Fair Trials (CAFFT) requested assistance and JSP and Home Office staff assisted in reviewing the grant application and making recommendations. CAFFT is a CSO active in monitoring performance of the judiciary. The proposal requests a grant for monitoring corruption and organized crime cases.

The JSP also plans to offer extensive training on grant applications for European Union (EU) Instrument for Pre-Accession Assistance (IPA) funds. In April the COP, DCOP, and the project's court administration coordinator met with Zoran Janakiev, president of the Macedonian Institute of Integration regarding training for LPAs and CSOs in applying for EU IPA funds. As discussed and agreed, Mr. Janakiev offered the names of two experts to provide this training to designated NGOs. JSP will evaluate the experts and, if appropriate, retain them to begin the training in June or July 2012. There are three different program modules: generic training, training tailored to the Instrument for Pre-accession Assistance (IPA) program and monitoring and evaluation (M&E) after funds are approved.

The trainings will also instruct the LPAs and CSOs on identifying available grants and grant writing—a key to sustainability.

### **1.1.2 Macedonian Judges Association**

The JSP selected the Macedonian Judges Association (MJA) for capacity building assistance after the completion of Phase I of the assessment conducted by CIRa. On May 7 CIRa conducted a performance assessment workshop for the MJA to assist in determining the need for JSP assistance.

The CIRa report recommends that the MJA receive assistance and training in the following areas:

- Developing Membership Base Strengthening Strategies –focus on activation of members;
- Provision of the Effective Efficient Services –focus on members;
- Media and Public Relations Strategies;
- Advocacy and Lobbying;
- Project Planning, Design and Implementation –Project Cycle Management;
- EU Funding Mechanisms;
- Management and Leadership Skills;
- Organizational and Management Skills;
- Stress Management.

The JSP also offered to assist the organization in the preparation of the application for the SOROS funds being administered by the CSP.

The project pledged further support for the MJA to assist in supporting an independent judiciary and for being a force for change and reform. The JSP held a planning session with the MJA on May 7 to discuss a number of initiatives that will make the MJA a voice for its members, the judiciary, and the

rule of law. The following areas will be covered in discussion groups to be held over the next few months;

- Decriminalization of Defamation Law;
- Challenges of commercial cases for judges and lawyers;
- Troublesome aspects of the Civil Procedure Law;
- Administrative Court issues.

### **1.1.3 Court Administration Association**

The Court Administration Association (CAA) is a relatively new organization, with approximately 1,200 members. It is comprised of court employees.

After the initial CIRa assessment, the CAA was chosen as one of the three organizations in need of and worthy of assistance to strengthen and build capacity. It has a dynamic leadership and has the institutional will to help build the Macedonian Judiciary into to a model for the region. The leadership supports the association's mission to protect court administrative staff, their rights and interests. The institution strives to increase professionalism and efficiency of court administrative staff and wishes to strengthen the capacity of its branch offices. To meet these goals the JSP support is considered essential. Adequate support will make the association sustainable both administratively and financially. Accordingly, in its report of phase II, CIRa recommended intervention in the following areas:

- Developing Membership Base Strengthening Strategies;
- Provision of the Effective and Efficient Serves;
- Develop Training Delivery Skills;
- Effective Media and Public Relations;
- Establishing and Maintaining Effective Partnership and Cooperation;
- Advocacy and Lobbying (for CAA's Advocacy Commission & CAA Branches);
- Developing Organizational and Financial Plans;
- Project Planning, Design and Implementation –Project Cycle Management;
- EU Funding Mechanisms;
- Facilitate Process for Development of New Strategic Plan 2013-2015;
- Management and Leadership Skills;
- Organizational and Management Skills;
- Human Resource and Volunteer Management.

The CAA is also eager to apply for the SOROS available grants through the CSP. JSP staff has given technical assistance, as requested, to the CAA with the goal of assisting in its submission of proposals for two separate grants by June 4.

The CAA has been invited by the International Association of Court Administrators (IACA) to attend its conference from June 13 to 15 and to deliver a presentation on new automation systems for court administration and management. JSP staff assisted the two selected members with planning for the trip.

The CAA also engaged with JSP staff in the development of a Training Needs Assessment by supplying suggestions for future trainings through its membership, particularly at a workshop conducted on May 21 & 22 to be reported on later in this report.

### **1.1.4 Macedonian Young Lawyers Association**

The Macedonian Young Lawyers Association (MYLA) is a LPA that assists and provides continuing legal education for young lawyers and works to promote and improve the lawyers' profession in Macedonia. The MYLA also works to promote and protect access to public information and supports the establishment of a free legal aid system. MYLA was one of the three associations chosen for enhanced capacity building of its organization during phase III.

The CIRa Final Report dated May 21, 2012 recommends the following:

- Developing Membership Base Strengthening Strategies –focus on increasing membership;

- Organizational Design;
- Provision for the Effective and Efficient Services;
- Media and Public Relations;
- Advocacy and Lobbying;
- Developing Organizational and Financial Sustainability Plans;
- Project Planning, Design and Implementation – Project Cycle Management;
- EU Funding Mechanisms;
- Maintaining Effective Donor Relations;
- Mobilization of Local Resources;
- Development of New Strategic Plan 2013 – 2015;
- Management and Leadership Skills;
- Training in Human Resource and Volunteer Management.

The MYLA attended the informational session sponsored by CSP through SOROS for grant information. They advised the JSP that they will apply for grants. The organization is experienced in grant applications and did not indicate that they would need JSP assistance.

### **1.1.5 Macedonian Lawyers Association**

Representatives of the JSP met with members of the Macedonian Lawyers Association (MLA) to describe the project's activities, mission, and goals. MLA is an organization of lawyers dedicated to legal work in commerce and business. It is an active organization that arranges two meetings or conferences each year and discusses current legal topics. It recognizes the need for and supports special commercial departments in the courts and continuous education and training for commercial judges and lawyers.

Several MLA members attended a focus group on May 18, supported by JSP to determine future training needs for commercial judges and lawyers. More details are provided in Section 3.1.2 of this report.

On May 22, the JSP and the USAID Investment Development and Export Advancement Support Project (IDEAS) discussed a joint effort to develop a questionnaire for determining the training needs of commercial lawyers, judges, and businesses. The questionnaire will be developed in early June, distributed in late June, and collected in early July. Based on the results, the JSP will develop a comprehensive and tailored training plan for commercial law.

## **2. RESULT 2: MORE INDEPENDENT, EFFICIENT AND CONSISTENT APPLICATION OF JUDICIAL POLICIES AND PRACTICES**

**2.1 Requirement 2.1 - *Legal framework and judicial branch policies strengthen independence, effectiveness, and accountability of the judicial system.***

### **2.1.1 Review and Advocacy of Laws by the Judiciary**

The JSP obtained and reviewed up-to-date versions of relevant laws, with the most recent amendments. The COP and DCOP met with the MJA, MLA, and CAA during this month to discuss the formation of a judicial group to review these laws and to identify inconsistencies, gaps, unfunded mandates, duplications, and idiosyncrasies.

After discussions with attorneys and judges as well as court administrators and staff, the JSP expanded the list of laws to include the Law on Court Services and a number of sub-regulations, Securities Law, Law on Company Dispute, Competition Law and Law on Intellectual Property.

During May, the JSP developed tentative plans for public discussions as well as round tables on selected laws. The list will be expanded further. For June, it will possibly include the decriminalization of defamation, commercial law, civil procedure law, and administrative court issues.

**2.2 Requirement 2.2** - *Administration and management rules, policies and procedures, systems and practices to support a modern court system; work with judicial sector authorities and actors to establish effective governance and operational systems for managing court resources—budget human resources, facilities, equipment, etc.; strengthen managerial capabilities and introduce performance standards*

### **2.2.1 Strengthening Judicial Administration and Management Systems, Procedures, and Capacities**

The JSP undertook an assessment of the existing administration and management systems, procedures, and practices of the courts and judicial bodies. As previously reported, JSP staff gathered selected materials that constitute the existing framework for court operations. An on-site consultancy began on March 18. An international expert was hired for these purposes, and was able to review current court processes in order to identify gaps, impediments and obstacles to efficient court administration and operations management. Due to a serious illness the expert could not complete the report, and the short-term employment agreement was terminated. Another expert with extensive knowledge and experience with the Macedonian judicial system was retained to review all relevant material and previously acquired data, and produce a good quality report. This report is expected to be finalized by mid-June.

#### **2.2.2 Court Staffing Study and Recommended Staffing Guidelines**

The JSP undertook a study to support the development of staffing guidelines. International court staffing expert, Dr. Ronald Stout, commenced the study and on-site work on March 13, 2012. The final report was received on April 11, 2012. Upon receipt, the report was reviewed by JSP staff and approved. It is being translated into Macedonian and will serve as the basis for future workshops and discussion groups on the adoption of staffing guidelines. JSP staff conducted follow-up meetings with the Supreme Court IT Department and individual users to review the capability of ACCMIS to support the methodologies recommended by Dr. Stout.

The approach recommended by the consultant requires that each court populates the database with each court transaction. Not all courts have done so. The JSP introduced this recommendation to the IT department of the Supreme Court and the President of the Judicial Council. Both supported requiring the courts to include the data. On May 9, the President of the Judicial Council directed compliance with all ACCMIS database requirements at a USAID/JSP supported meeting of president judges and court administrators. In addition, this item is embedded in the overall ACCMIS assessment sponsored by JSP. The subject was further discussed at the first JSP sponsored meeting of the ICT personnel from the courts on May 31.

#### **2.2.3 Court Service Council and Court Administrators Workshop**

On May 21 and 22, the Court Service Council and the Court Administrators met for a two-day workshop entitled “Employment, Evaluation and Disciplinary Procedures of Court Employees” that was supported by USAID/JSP. The workshop reviewed policies and procedures for hiring and promoting non-judicial staff.

The workshop discussed key recent changes in the Law on Court Service which prescribes specific responsibilities for court administrators during the procedure for selecting and hiring court employees. The criteria for required skills and work experience are set forth in the Law on Court Service and the Courts’ Act for Systematization. Court Administrators also have a statutory obligation to conduct performance evaluations twice a year of over two thousand and two hundred court staff which has proved troublesome. The evaluation results are the key basis for career level advancement and salary enhancement.

Despite the legal framework intended to give the judiciary direct responsibility over the management of court administration and to increase control over its human resources, Human Resources management is not standardized throughout the 34 courts in the Republic of Macedonia, and its effectiveness varies from court to court.

The workshop included presentations, breakout groups, and interactive discussions. The head of the CSC and members of the CAA facilitated the workshop and demonstrated improvements in their capacity and sustainability. JSP COP, Judge Joseph Traficanti, and CSC President Sonja Gruevska, opened the workshop and introduced the program. JSP COP delivered a presentation on conducting interviews with candidates for employment.

The workshop identified the current issues in the Law on Court Service and built a consensus for the next steps in addressing the concerns. Participants presented the JSP with a number of recommended changes in the Law on Court Services. Other suggested topics included methods and procedures for evaluation of court employees, disciplinary procedures, changes in how sub-regulations are adopted for human resources issues, and the status of an employee while a student at the Academy for Judges and Public Prosecutors (Academy).

#### **2.2.4 Development of Needs Based Budgets**

Preparing and presenting an adequately supported budget increases the independence of the judiciary. A judicial system starved for funds cannot adequately fulfill its core mission and obligation to the citizens it serves. Each court has the technical ability to request from the Court Budget Council (CBC) a budget based on need with justification. ACCMIS and the Automated Budget Management System (ABMS) make this possible.

After discussions with Ms. Sylvija Janevska, head of the Administrative Office (AO) of the CBC and with the USAID COR, the JSP decided to work with six pilot courts to develop a model “Needs-Based-Budget”. The JSP will then work to replicate the use of the model in each court. Ms. Janevska suggested the following pilot courts: Basic Courts Skopje I, Bitola, Shtip, Tetovo and Veles; and the Appellate Court, Skopje. Letters were sent to each of the president judges inviting them to take part in building a model budget. An initial meeting will take place in June. In preparation, a strategy and planning session took place with JSP personnel and Ms. Jenevska on May 31.

### **3. RESULT 3: INCREASED FAIRNESS AND EFFICIENCY OF THE ADMINISTRATION OF JUSTICE THROUGH MORE EFFECTIVE LEGAL PERSONNEL AND EFFICIENT PROCESSES**

**3.1 Requirement 3.1** - *Develop and implement targeted specialized trainings for judges, court administrative executives, and court staff.*

#### **3.1.1 Training of members of the Court Budget Council (CBC); Training on Management Responsibilities of President Judges and Court Administrators**

The latest changes in the Law on Courts, the Law on Judicial Council, and the Law on Case Management, that took place in 2010, assign very specific responsibilities to president judges regarding managing their courts, managing court finances, and reporting to the JC. Each year president judges are evaluated based on the organization and functioning of their courts, transparency, usage of court information technology, and financial operation.

At the request of the president of the CBC and JC, the JSP prepared tailored trainings for members of the CBC on budget preparation and execution, and for president judges and court administrators on court management. The JSP retained Judge Bert Maan to develop and implement a curriculum for specialized training for judges and court administrative executives. JSP staff assisted Judge Maan by supplying background documents and working with him to develop an agenda and Power Point slides for two one-day training sessions.

On May 8, Judge Maan facilitated the training for the CBC and covered the following topics:

- Court budgeting in Holland – positive experiences and challenges;
- Implementation of the amendments to the Law on Court Budget (LCB):
  - Centralized public procurement for the judiciary (advantages and constraints);
  - Realignment of the budget proposals of individual courts on appellate court level;
  - Reflection of budget limitations from 2012 on the normal operation of courts (Article 20 of the LCB).



On May 9, Judge Maan presented the program for the president judges and court administrators. The topics included:

- Managing Courts During Difficult Financial Times;
- Case Management and Court Reporting;
- Management of court administration;
- Management of court finances and IT system.

Joining Judge Maan on the program was Judge Stojance Ribarev, president judge of appellate region Shtip who lectured on Transparency and Accountability, and Mr. Pece Tashevski, director of the Commission for Protection of Rights and Free Access to Public Information who presented a module on the laws pertaining to freedom of information.

On May 7 Judge Maan met with Judge Aneta Arnaudovska, director of the Academy for Judges and Public Prosecutors (Academy) to discuss judicial education.

### **3.1.2 Assessment of Specialized Training Needs for the Judicial Sector**

In January, JSP staff began assessing future training needs. Extensive outreach has been made to judges, attorneys, court administrators, and educators including the director of the Academy, Judge Aneta Arnaudovska. A Training Needs Assessment (TNA) will be prepared and will outline the findings and recommendations in detail by the end of June or early July.

As part of the TNA effort, the JSP organized a meeting with a focus group of commercial lawyers and judges. The event was held on May 18 at the Academy with the participation of one of the Academy staff responsible for continuous training. A number of topics were recommended for future trainings/roundtables and for training programs. Some of these recommendations touched upon Securities Law, Company Law, Competition Law, Law on Intellectual Property, and the Court Book of Rules. The focus group yield recommendations regarding the manner in which the trainings/roundtables should be conducted.

The project is also preparing to collaborate with the USAID project IDEAS, which works to support the commercial sector. A questionnaire will be collaboratively produced in early June. This will be used to elicit further and targeted information from the commercial legal professionals and become part of a final Needs Assessment Report.

### **3.2 Requirement 3.2 - Improve Caseload Processing and Reduce Backlog of Cases.**

#### **3.2.1 Support for Judicial Sector Automation**

As previously reported, the JSP retained a local IT expert, Ms. Rosalija Vasilevska-Karcinska, to assess the use of the Automated Court Case Management System (ACCMIS) and other court automation and to identify and report on impediments to its use by the courts and other users. Her final report was filed on April 25. Since then the report has been reviewed, translated and shared with the appropriate partners and counter-parts of the JSP. The consultant made a formal presentation at a meeting to the IT personnel from the courts on May 31 at the Supreme Court in collaboration with the Supreme Court Automation Department.

After consultation with the USAID COR, Supreme Court IT Department, JC, AO and other appropriate entities within the judiciary, The JSP will address the recommendations within the JSP mandate and for which resources are available.

Ms. Vasilevska-Karcinska's report and recommendations has reaffirmed the need for JSP to continue to support the automation of the courts and the enhanced use of the information now available from the robust data-base of ACCMIS and the information available through the ABMS. The information is necessary for the efficient disposition of filed cases and the reduction of backlog. In addition, long-term planning and needs-based-budgets are all linked to judicial sector automation.

Accordingly, JSP has retained the services of Ms. Vasilevska-Karcinska for an additional 30 days level of effort (LOE) to be utilized until December 31, 2012. Her duties include supporting the JSP effort to achieve the goal of full use of the technology available for all courts and other entities within the judicial sector.

JSP DCOP Ivanovska attended the monthly meeting of the Supreme Court Committee to discuss ACCMIS issues on May 17. Future meetings will be attended by the project's IT expert as part of her current contract and LOE.

### **3.2.2 First Meeting of ICT Staff from the Courts**

On May 31, in support of judicial sector automation and technology, JSP organized and facilitated a meeting with IT personnel from all the courts in Macedonia at the Supreme Court. The meeting aims to begin regular coordination/communication meetings of IT staff that will raise the level of technology use in the courts and resolve some of the outstanding issues.

### **3.2.3 Electronic Recording of Court Hearings**

In the closing days of the previous USAID/JRIP rule of law project, electronic recording devices were installed in 80 courtrooms in Macedonia. The use of the devices has not been consistent. A number of judges also raised issues which need to be addressed including the need for more training on the electronic recording devices for the judges as well as the court staff. The courts as well as JSP and USAID have concerns about the enabling legislation especially regarding the requirement for the courts to supply copies of a full transcript upon request of a party.

JSP is committed to moving forward with expanding the use of the devices which contribute to openness and transparency, as well as protection to the judge and staff against unjustified criticism. The JSP COP and DCOP, and the USAID COR attended a simulation of the use of the device during a mock hearing. This took place in Basic Court, Skopje II on May 25. The COP and DCOP met with the original vendor and trainer for the electronic recording devices on May 30 to discuss future strategies to enhance the use system-wide. In June, JSP will use the information gathered and prepare a plan for future expansion, training, and possible rule and statutory changes to will be recommended.

## **II. PROBLEMS AND REMEDIAL ACTIONS**

Problems have been minimal and in the nature of those to be expected in the regular course of business.

## **III. SUMMARY OF ACTIVITIES PLANNED FOR JUNE 2012**

Summary of activities planned for June include:

- Proceed with phase III of the capacity building Initiative for LPAs and CSOs:
  - Facilitate agreement of a capacity building-plan for each targeted LPA;
  - Prepare and proceed to public procurement for capacity building programs;
  - Oversee the training initiatives as they are delivered;
- Train 11 professional associations in EU/IPA grant identification and writing through experts from the Macedonian Institute of Integration;
- Implement the Staffing Study Report; establish tasks and timelines for implementation;
- Review assessment report of existing administration and management practices and set schedule for implementation of selected results when approved by partners and USAID;
- Support MJA in conducting 2 public discussions and workshops on selected laws;
- Identify potential members of a judicial working group to review laws;
- Prepare preliminary draft report on the specialized TNA for future training of judges and court administrators;
- Discuss training needs and recommendations with the director of the Academy for Judges and Public Prosecutors, and develop an initial training plan;

- Continue to accumulate statistical data on case filings, dispositions, and backlogs by court and case type and prepare an analysis of the case data; work with 6 pilot courts and supply support to meet targets;
- Provide support to the courts and the Supreme Court IT Department to realize the complete systemwide use of ACCMIS continue implementation of recommendations of the ICT expert;
- Conduct five on-site visits to various courts along with president of Judicial Council in order to reinforce a need for full ACCMIS utilization
- Procurement for upgrade of ACCMIS to provide data required by Methodology for Court Statistics and Commission for Efficiency of Justice (CEPEJ)
- Meet with pilot courts for implementing needs-based budgets and schedule training;
- Meet with pilot courts to begin effort to increase case clearance rates;
- Continue to meet with donors and monitor opportunities for collaboration and grants;
- Prepare three-year plan for off-shore study tours.